

§ 46.118

available for inspection in the same manner as prescribed for a special tax stamp in § 46.116(c).

§ 46.118 Certificate in lieu of lost or destroyed special tax stamp.

The provisions of this subpart relating to special tax stamps apply as well to certificates in lieu of lost or destroyed special tax stamps issued to taxpayers under § 46.117.

§ 46.119 Errors disclosed by taxpayers.

On receipt of a special tax stamp, the taxpayer must examine it to ensure that the name and address are correctly stated; if not, the taxpayer must return the stamp to the TTB officer who issued it, with a statement showing the nature of the error and the correct name or address. The appropriate TTB officer, on receipt of such stamp and statement, will compare the data on the stamp with that of the Form 5630.5t in TTB files, correct the error if made in the TTB office, and return the stamp to the taxpayer. However, if the error was in the taxpayer's preparation of the Form 5630.5t, the appropriate TTB officer will require the taxpayer to file a new Form 5630.5t, designated "Amended Return," setting forth the taxpayer's correct name and address, and a statement explaining the error on the original Form 5630.5t. On receipt of the amended Form 5630.5t and a satisfactory explanation of the error, the appropriate TTB officer will make the proper correction on the stamp and return it to the taxpayer.

§ 46.120 Errors discovered on inspection.

When a TTB officer discovers on a special tax stamp a material error in the name, ownership, or address of the taxpayer, that officer will require the taxpayer to surrender the erroneous tax stamp and prepare a new Form 5630.5t, designated "Amended Return," showing correctly all of the information required in § 46.101 and containing, in the body of the form or in an attachment thereto, a statement of the reason for requesting correction of the stamp. On receipt of the amended return and an acceptable explanation for the error, the officer will make the proper correction on the stamp and re-

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turn it to the taxpayer. However, if the error found by the TTB officer is on a special tax stamp issued as a result of a return on Form 5630.5t filed under § 46.101(b), that officer will instruct the taxpayer to return the stamp, with a statement showing the nature of the error and the correct data, to the TTB officer who issued the stamp, for correction in accordance with § 46.119.

CHANGES IN BUSINESSES HOLDING SPECIAL (OCCUPATIONAL) TAX STAMPS

§ 46.126 Change in name or address.

(a) *Change in name.* If there is a change in the corporate or firm name, or in the trade name, as shown on TTB Form 5630.5t, the taxpayer must file an amended special tax return as soon as practicable after the change, covering the new corporate or firm name, or trade name. No new special tax is required to be paid. The taxpayer must attach the special tax stamp for endorsement of the change in name.

(b) *Change in location—(1) General.* If there is a change in location of a taxable place of business, the taxpayer must, within 30 days after the change, file with TTB an amended special tax return covering the new location. The taxpayer must attach the special tax stamp or stamps for endorsement of the change in location. No new special tax is required to be paid. However, if the taxpayer does not file the amended return within 30 days, the taxpayer is required to pay a new special tax and obtain a new special tax stamp.

(2) *Procedure.* If the taxpayer's original return on TTB Form 5630.5t covered only one location, the taxpayer may deliver the amended return and the stamp at any TTB office, or to any TTB officer inspecting the business, in lieu of mailing them to TTB. If the taxpayer's original return covered multiple locations under the provisions of § 46.101(b), he or she must forward with the amended return an attachment showing both the old and new address of any place of business which has been relocated, and the special tax stamp covering the location from which the business was removed. The appropriate TTB officer receiving such return or stamp will, if the return is submitted within the 30-day period, enter the

proper endorsement on the stamp and return it to the taxpayer.

(26 U.S.C. 5733, 7011)

§ 46.127 Change in ownership.

(a) *General.* A special tax stamp is a receipt for tax, personal to the one to whom issued, and is not transferable from one manufacturer of tobacco products, manufacturer of cigarette papers and tubes, or export warehouse proprietor to another. If there is a change in the ownership of a special-tax payer, the successor must pay a new special (occupational) tax and obtain the required special tax stamp(s). Examples of changes in ownership that require payment of a new special tax include, but are not limited to, the following:

- (1) Sale of business;
 - (2) Formation of a partnership by two persons who have paid special tax;
 - (3) Addition of a partner;
 - (4) Incorporation of the business;
 - (5) Creation of a new corporation to replace one or more corporations that have paid special tax; and
 - (6) Stockholder continuing the business of a corporation after its dissolution.
- (b) *Changes that do not require payment of a new special tax.* The following changes do not require payment of a special tax:

- (1) Increase in capital stock of a corporation.
- (2) Change in ownership of any or all of the capital stock of a corporation.

(c) *Exemption for certain successors.* Persons identified in paragraph (d) of this section as having the right of succession may carry on the business for the remainder of the tax year for which the special tax was paid, without paying a new special tax, if within 30 days after the date on which the successor begins to carry on the business, the successor files with TTB a special tax return on TTB Form 5630.5t showing the basis of succession. A person who is a successor to a business for which special tax has been paid, and who fails to register the succession, is liable for special tax computed from the first day of the calendar month in which the successor began to carry on the business.

(d) *Persons having right of succession.* The right of succession referred to in paragraph (c) of this section will pass to the identified persons in the following circumstances:

- (1) *Death.* The surviving spouse or child, or the executor, administrator, or other legal representative, of a deceased taxpayer;
- (2) *Succession of spouse.* A husband or wife succeeding to the business of his or her living spouse;
- (3) *Insolvency.* A receiver or trustee in bankruptcy, or an assignee for the benefit of creditors;
- (4) *Withdrawal from firm.* The partner or partners remaining after the death or withdrawal of a member of a partnership.

(26 U.S.C. 5733)

STAMPS FOR INCORRECT PERIOD OR INCORRECT LIABILITY

§ 46.131 General.

If a taxpayer through error has filed a return and paid special tax for an incorrect period of liability or for an incorrect class of business, the taxpayer must prepare a corrected TTB Form 5630.5t, designated "Amended Return," for each tax year involved and must submit the amended return, or returns, with remittance for the total applicable tax and additions to the tax (delinquency penalties and interest), to TTB in accordance with the instructions on the Form 5630.5t or, if the error is discovered by a TTB officer inspecting the premises, to that officer. Subject to the limitations imposed by 26 U.S.C. 6511, the incorrectly paid tax (including additions thereto) may be allowed as a credit against the correct tax (including any additions thereto), as provided in § 46.132, on surrender of the incorrect stamp or stamps, with the amended return or returns noted to show that credit is requested. Any incorrectly paid tax (including additions thereto) that is not credited as provided in § 46.132, including any creditable tax and additions thereto in excess of the correct tax (including additions thereto), may be refunded pursuant to §§ 46.136 through 46.138 if the taxpayer files a corrected return on Form 5630.5t with remittance of the correct amount